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**Introduced by Senator Fuller**

February 19, 2014

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An act to amend Section 846 of the Civil Code, relating to real property.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1072, as introduced, Fuller. Real property: duty of care: recreational purposes: aviation activities.

Existing law provides that an owner of any estate or interest in real property owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on those premises to persons entering for a recreational purpose, with certain exceptions. Existing law defines "recreational purpose" for purposes of this law to mean certain activities, including among others, hang gliding.

This bill would expand the definition of "recreational purpose" to include other aviation activities.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 846 of the Civil Code is amended to read:
- 2 846. An owner of any estate or any other interest in real
- 3 property, whether possessory or nonpossessory, owes no duty of
- 4 care to keep the premises safe for entry or use by others for any
- 5 recreational purpose or to give any warning of hazardous
- 6 conditions, uses of, structures, or activities on ~~such~~ *those* premises

1 to persons entering for ~~such~~ *a recreational* purpose, except as  
2 provided in this section.

3 A “recreational purpose,” as used in this section, includes ~~such~~  
4 activities *such* as fishing, hunting, camping, water sports, hiking,  
5 spelunking, sport parachuting, riding, including animal riding,  
6 snowmobiling, and all other types of vehicular riding, rock  
7 collecting, sightseeing, picnicking, nature study, nature contacting,  
8 recreational gardening, gleaning, hang gliding, *other aviation*  
9 *activities*, winter sports, and viewing or enjoying historical,  
10 archaeological, scenic, natural, or scientific sites.

11 An owner of any estate or any other interest in real property,  
12 whether possessory or nonpossessory, who gives permission to  
13 another for entry or use for the above purpose upon the premises  
14 does not thereby (a) extend any assurance that the premises are  
15 safe for ~~such~~ *that* purpose, or (b) constitute the person to whom  
16 permission has been granted the legal status of an invitee or  
17 licensee to whom a duty of care is owed, or (c) assume  
18 responsibility for or incur liability for any injury to person or  
19 property caused by any act of ~~such~~ *the* person to whom permission  
20 has been granted except as provided in this section.

21 This section does not limit the liability which otherwise exists  
22 (a) for willful or malicious failure to guard or warn against a  
23 dangerous condition, use, structure or activity; or (b) for injury  
24 suffered in any case where permission to enter for the above  
25 purpose was granted for a consideration other than the  
26 consideration, if any, paid to said landowner by the state, or where  
27 consideration has been received from others for the same purpose;  
28 or (c) to any persons who are expressly invited rather than merely  
29 permitted to come upon the premises by the landowner.

30 Nothing in this section creates a duty of care or ground of  
31 liability for injury to person or property.